

REMARKS

Responsibility for the subject application has been transferred to the law firm of Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C. for further prosecution. Accordingly, attached herewith an executed Revocation of Prior Powers.

Claims 1-17 are pending in the present application. Of these, claims 1-5 and 11-17 are withdrawn from consideration and claims 6-10 are currently under examination. Claim 6 is the only independent claim being examined presently.

35 U.S.C. §102(a) Rejection

Independent claim 6 stands rejected under 35 U.S.C. §102(a) as being anticipated by Zhao, Y., Lou, D., Burke, J. and Kohler, H., J. Immunotherapy, 2002, 25:57-62.

It is well established that "Applicant's disclosure of his or her own work within the year before the application filing date cannot be used against him or her under 35 U.S.C. 102(a)" and that such a rejection can be overcome by "submission of a specific declaration by the applicant establishing that the article is describing applicant's own work." (In re Katz, 687 F.2d 450, 215 USPQ 14, CCPA 1982, cited in MPEP 2132.01)

Applicant submits herewith a Declaration under 35 U.S.C. 1.132 to show that relevant portions of the reference originated with or were obtained from Applicant. In particular, Dr. Heinz Kohler, an inventor in the instant application for patent, states in the submitted Declaration that "any work relating to U.S. Patent Application Serial No. 10/652,864 which is disclosed in the above-referenced article was my invention and that my co-authors Yunfeng Zhao, Dingyuan Lou and John Burke were a post-doctoral fellow in training, a technician and a part-time student, respectively, who worked under my supervision and at my direction."

Applicant submits that in view of the Declaration, the Zhao et al. reference cited by the Examiner is removed from consideration as prior art under 35 U.S.C. §102(a) rendering the current rejection of claim 6 under this section moot. Applicant therefore respectfully requests withdrawal of the rejection, reconsideration and allowance of the claim.

35 U.S.C. §103(a) Rejection

Claims 6-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Zhao, Y., Lou, D., Burke, J. and Kohler, H., J. Immunotherapy, 2002, 25:57-62. in view of U.S. Patent No. 6,238,667 to Kohler et al.; U.S. Patent No. 7,041,459 to Singh et al.; Zhao et al., J. Immunol. Methods, 2001, 254:137-145; and Rojas et al., Nature Biotechnology, 1998, 16:370-375.

In order to establish a *prima facie* case of obviousness, a prior art reference or combination of references must teach or suggest all the limitations of the claims. (MPEP 2143)

Applicant submits that, in view of the removal of the Zhao et al. J. Immunotherapy, 2002, 25:57-62 reference as prior art, no *prima facie* case of obviousness is established since the Examiner relied on that reference to assert a teaching of "a method of producing an autophilic antibody..." (Paper No. 20070416, p.4, section 8).

Since no *prima facie* case of obviousness is established, Applicant respectfully requests withdrawal of the rejection of independent claim 6 and allowance of the claim. Furthermore, in view of Applicant's belief as to the allowability of independent claim 6, dependent claims 7-10 are likewise submitted to be allowable. Applicant submits that these dependent claims encompass patentable subject matter separate from the dependence on allowable base claims. Applicant reserves the right to make such remarks of record in the event that the rejection is maintained.

In view of the above amendment and comments, Applicant believes the pending claims are in condition for allowance. If the Examiner finds to the contrary, it is respectfully requested that the undersigned attorney be contacted at the telephone number provided below.

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Respectfully submitted,

By 

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